

Information Guide – Maritime Property – Purchase of Reclaimed Maritime Land

About this guide

This guide:

- Provides information to assist potential purchasers of Maritime reclaimed land
- Will generally be applied by Roads and Maritime unless the delegated personnel determines that circumstances exist which justify a departure from the guide, including to the extent necessary to comply with its obligations at law.

Roads and Maritime staff will assist current and prospective Lessees with their enquiries and provide general information in accordance with the Roads and Maritime Customer Charter.

Note:

To avoid unnecessary duplication Lessees and Licensees will be referred to in this guide generically as Lessees and references to Roads and Maritime relate to its relationship as the property owner and Lessor of Maritime Property.

Roads and Maritime principles governing the sale of reclaimed land

The disposal of Roads and Maritime surplus Reclamation land is generally considered when the adjoining landowner initiates such negotiations and all applications to purchase property are considered on their own merits.

In assessing an application to purchase reclaimed land, Roads and Maritime will ensure that:

- Only underutilised or unused properties are reviewed for potential disposal as set out in the Site Assessment carried out for individual properties as part of the planning, lease review or renewal processes
- Disposals will only be considered for underutilised or unused properties that do not provide financial benefit to the NSW Government and/or boating amenity to the public and/or support infrastructure requirements
- An analysis is undertaken including assessing potential Community and Infrastructure uses before any decision is made to dispose of a property. In regard to the disposal of surplus reclaimed land, the assessment will include an investigation of whether:
 - > there is any potential contribution of the reclamation property to the working harbour
 - > there are any marine safety issues; and
 - > there are any alternative public uses for the land, including the potential for increased public foreshore access.
- Future maintenance responsibilities are identified and, should a sale proceed, any future maintenance obligations are transferred to the new owner through disposal documentation including registration of suitable covenants and caveats on title as appropriate.

In particular, where a seawall exists along the reclamation, any disposal by Roads and Maritime would include that seawall on an 'as is' basis, including the portion below mean high water mark. Maintenance of the seawall will therefore become the responsibility of the Purchaser and any successors in title:

- All debts owed to Roads and Maritime are paid in full, including any outstanding rental for the subject reclaimed land or any structures, currently or previously under a Lease
- All costs, including all of Roads and Maritime' costs associated with any disposal, must be borne by the Purchaser provided this is not contrary to the terms of any current Lease
- All issues of non-compliance associated with the property to be disposed of and/or in relation to the adjoining lands under a tenure arrangement with Roads and Maritime have been rectified to the satisfaction of Roads and Maritime prior to the disposal
- All subdivision and other planning issues, and all associated costs, are the responsibility of the prospective Purchaser.

Nothing in this guide obliges Roads and Maritime to dispose of any property, or to offer any property for disposal on the same or similar terms as any previous disposal or in accordance with any externally generated criteria;

Disposal of a reclaimed property by Roads and Maritime does not imply that it supports any subsequent rezoning or alternative use of the property.

Roads and Maritime wetland, i.e. submerged land below mean high water, or land subject to inundation by tidal water, will generally not be considered for disposal.

Acquisition Process for Surplus Reclaimed Land

Applications to purchase reclaimed land are generally made where the subject Reclamation is leased to the applicant or the Reclamation immediately and principally adjoining the applicant's freehold property.

Applications to purchase a Reclamation Property must be made on the [Application To Purchase Reclaimed Land Owned by Roads and Maritime Form](#) and forwarded to Roads and Maritime, accompanied by the prescribed fee as a deposit, and include the applicant's written agreement to pay any additional costs associated with assessment and finalisation of the application.

The deposit accompanying the application will be used to cover legal, administration and valuation expenses relevant to finalising the application. Where the deposited amount exceeds these costs, the balance will be refunded to the applicant. Where the deposited amount is insufficient to cover these costs, the applicant will be requested to provide additional funds. If the applicant at any time elects to terminate the application process, they will be refunded any uncommitted deposit funds.

Initial Assessment

Generally Roads and Maritime will conduct an initial assessment of applications according to the following criteria:

- Any potential contribution of the Reclamation property to the working harbour
- Any marine safety issues
- Any alternative public uses of the land, including the potential (if any) for increased public foreshore access.

Applications which satisfy these initial criteria may, at the discretion of Roads and Maritime, proceed to financial assessment. Applications not satisfying these criteria will be refused and the balance of deposited funds returned to the applicant.

Financial Assessment

Applicants approved for financial assessment will be considered against the financial interests of Roads and Maritime in proceeding with the prospective disposal, against the net return from retaining the land.

Following approval for financial assessment Roads and Maritime will value the property and assess the financial interests of Roads and Maritime in proceeding with the prospective disposal, against the net return from retaining the land for on-going lease.

Roads and Maritime will generally obtain an independent valuation of the land having regard to the highest and best use via a "before and after" current valuation methodology. The valuation will include the value of any land improvements but will not include the value of general improvements such as boatsheds, swimming pools, tennis courts and the like.

Applicants will be offered an opportunity to provide relevant additional information beyond that outlined in their application materials, prior to finalisation of the valuation. A copy of the final valuation will be provided to the applicant. Should the valuation satisfy Roads and Maritime' financial interests, the land may be offered for disposal at the valued amount.

Within 30 days of receiving the valuation, or determining that the property value is less than the threshold amount, Roads and Maritime will either:

- Offer the land for disposal to the applicant for a proposed value
- Advise the applicant that it is not willing to proceed with the sale.

Offers for disposal will remain current for 90 days. Offers not finalised within this 90-day period may be deemed to have lapsed unless both parties agree to an extension of time.

Roads and Maritime reserves the right to refresh the valuation if a contract is not signed within six months of acceptance of the sales price.

Roads and Maritime is not obliged, under any circumstances, to sell any land or offer any land for sale at any price similar to any previous offer or on any previous terms.

Where Roads and Maritime estimates the property value at less than a threshold amount, it may (but is not obliged to) dispense with an independent valuation, and instead apply the estimated value.

Should a sale price be agreed, any existing approved leased reclaimed land will be surrendered and will be the subject of a new lease or licence, where only part of the reclaimed land is being purchased, with the new landowner, providing the lease duration is not less than the existing lease duration. Where 100% of the reclaimed land is being purchased, no new lease or licence arrangement will be required.

Requirements relating to seawalls

Where a seawall exists along the reclamation, any disposal by Roads and Maritime would include that seawall on an 'as is' basis.

Ongoing maintenance of the seawall, including the portion below mean high water mark, will be the responsibility of the purchaser and any successors in title. Where the toe of the seawall is on Roads and Maritime land, Roads and Maritime may require an appropriate easement having regard to the nature of the structures upon its land. This may also require a positive covenant to be registered on the title of the adjoining land.

Roads and Maritime will prepare the positive covenant at the purchaser's cost and as a condition of the sale the covenant will be required to be registered on the land title.

Statutory Planning Matters

Roads and Maritime agreement to dispose of a Reclamation property does not imply that it supports any subsequent applications for rezoning or development approval over the subject land. Any subdivision or other planning approvals are the responsibility of the prospective purchaser including Roads and Maritime subdivision or other development approval costs, if any.

Determination of disposal of Reclaimed Property

In making a determination whether to dispose of reclaimed property, Roads and Maritime may choose to:

- Retain the Reclamation
- Remove or require the removal of the Reclamation
- Lease the Reclamation property as is
- Dispose of the Reclamation property
- Deny access to the property
- Use it for any purpose it considers appropriate in the circumstances.

Important Note: *This document does not constitute legal advice and provides guidance only. Users are advised to seek professional advice and refer to the relevant legislation as necessary, before taking action in relation to any matters covered by this document.*

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